

# MINING AND GAS AND OIL PRODUCTION

## CHAPTER 244

S. B. No. 122

(Kusler, Fiedler and Livingston)

### COAL MINE LICENSES

#### AN ACT

To amend and reenact section 38-0401 of the North Dakota Revised Code of 1943 relating to license fees for coal mines.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.**) Section 38-0401 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**38-0401. Coal Mine License: Required; Term; Fees.)** On or before the tenth day of July in each year, the operator of each and every coal mine in this state selling, bartering, or exchanging coal with any other person shall procure a license from the inspector to operate such mine. The fee for such license shall be as follows:

1. For any mine producing not more than one hundred tons of coal annually, the sum of five dollars;
2. For any mine producing more than one hundred tons and not more than one thousand tons of coal annually, the sum of fifteen dollars;
3. For any mine producing more than one thousand tons and not more than five thousand tons of coal annually, the sum of forty-five dollars;
4. For any mine producing more than five thousand tons and not more than ten thousand tons of coal annually, the sum of sixty-five dollars;
5. For any mine producing more than ten thousand tons and not more than twenty thousand tons of coal annually, the sum of eighty-five dollars;
6. For any mine producing more than twenty thousand tons and not more than fifty thousand tons of coal annually, the sum of one hundred twenty-five dollars;

7. For any mine producing more than fifty thousand tons and not more than two hundred thousand tons of coal annually, the sum of two hundred dollars; and
8. For any mine producing more than two hundred thousand tons of coal annually, the sum of three hundred dollars.

The license period shall be from July first of the year in which the license is issued to June thirtieth of the following year, both dates inclusive. The amount of the license fee shall be based on the operator's report of the number of tons of coal mined during the year terminating with the date of issuance of the new license, except that in the case of mines applying for an initial license, the license fee shall be based on the operator's estimate of the number of tons of coal to be produced during the license year.

Approved March 9, 1957.

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## CHAPTER 245

H. B. No. 666  
(Kjos, Etestad and Beede)

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### INTENT TO CONVEY MINERALS

#### AN ACT

To amend and reenact section 1 chapter 235 of the 1955 Session Laws of the state of North Dakota relating to descriptions and definitions of minerals in leases and other conveyances.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Amendment.)** Section 1 of chapter 235 of the 1955 Session Laws of the state of North Dakota is hereby amended and reenacted to read as follows:

**§ 1. Description And Definition Of Minerals In Leases And Conveyances.)** No conveyance of mineral rights or royalties separate from the surface rights in real property in this state, excluding leases, shall be construed to grant or convey to the grantee thereof any interest in and to any gravel, coal, clay or uranium unless the intent to convey such interest is specifically and separately set forth in the instrument of conveyance.

No lease of mineral rights in this state shall be construed as passing any interest to any minerals except those minerals

specifically included and set forth by name in the lease. For the purposes of this paragraph any mineral so named shall be deemed to include the by-products of such mineral and in the case of oil and gas, all associated hydrocarbons produced in a liquid or gaseous form so named shall be deemed to be included in the mineral named. The use of the words "all other minerals" or similar words of an all-inclusive nature in any lease shall not be construed as leasing any minerals except those minerals or their by-products set forth in the lease.

Approved March 19, 1957.

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## CHAPTER 246

S. B. No. 216

(Freed, Roen, Wenstrom, Garaas and Erickson)

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### LEASE OF MINERALS ON PUBLIC LANDS

#### AN ACT

Authorizing the state of North Dakota and political subdivisions to lease minerals on public lands.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Definitions.)** In this Act unless the context or subject matter otherwise requires

1. "State" shall mean and include the state of North Dakota, its departments, agencies, instrumentalities, and political subdivisions.
2. "Mineral" shall mean and include uranium, thorium, vanadium, molybdenum, germanium and fissionable and nonfissionable metals and minerals mined therewith, including gravel where necessary to produce the minerals included herein except that it shall not mean oil or gas nor shall it mean coal which does not contain uranium, thorium or other fissionable metals or minerals in commercial quantities unless the mining of such coal is reasonably essential to production under the lease.
3. "Agency" shall mean and include any department, agency, instrumentality, or political subdivision of the state of North Dakota.

**§ 2. Leases Of Certain Mineral Rights In State Lands.)** The state of North Dakota may lease land or minerals in tracts not exceeding six hundred forty acres, for the purpose of prospecting for and mining uranium, thorium, vanadium, molybdenum, germanium, and fissionable and nonfissionable metals and minerals mined therewith, including gravel where necessary to produce the minerals included herein that may be contained in any portion of lands owned by this state or that may be contained in state lands sold with a reservation of mineral deposits, or belong to the state of North Dakota by reason of being situate up to the low water mark of navigable rivers or lakes of this state. Such leases shall provide for an annual rental of one dollar per mineral acre per year in advance and for such royalty upon the mineral product as the state may deem fair and in the interest of the state, provided that the minimum royalty shall not be less than five percent on the interest owned by the state and mined and marketed under the lease. The rental paid for any year shall be deducted from the royalties as they accrue for that year.

**§ 3. Terms Of Lease; Ratification; Restoration Of Land.)** All mineral leases of state-owned land shall be for a primary term of five years, and as long thereafter as minerals or any of them are produced in paying quantities therefrom. The lease may provide for a reasonable "shut in" clause to prevent forfeiture of the lease for temporary interruption of mining operation for causes beyond the control of the lessee. The lease shall further provide for a bonus payment of not less than one dollar per mineral acre. In all cases where the state owns the surface rights to the land subject to lease the state shall make provisions in the lease for the payment of reasonable compensation for damage to the land affected by mining operations.

All agencies of the state of North Dakota are hereby authorized to ratify or subordinate leases. Leases may be issued under this Act including state lands which are also under lease for other purposes than are covered by this Act.

**§ 4. Offering Of Mineral Leases To Be Public.)** Prior to the execution of a mineral lease by any agency of the state of North Dakota, that agency owning or controlling the mineral interest shall first advertise the minerals offered for lease in the official paper of the county or counties in which such lands are located, and in a newspaper of general circulation published in the city of Bismarck. Such advertisement shall be published once each week for at least two weeks, the last publication to be at least ten days prior to the day of such leasing. The notice as published shall contain a statement

showing the legal description of the lands to be leased, the time and place where the leasing will be held, and such other information as may be deemed by the leasing agency to be applicable. The leasing shall be by public auction held at the offices of the agency owning or controlling state-owned minerals. Bidding shall be on the bonus.

§ 5. Bidding Or Offers.) Offers for leases may be made in writing. The offer shall be accompanied by a certified check or cashiers check for the amount of the bid and shall be opened at the auction. Offers for mineral leases shall be in such form as the leasing agency may prescribe, and bidder shall describe the land, indicate the bonus offered by him, specify the mineral or minerals, and give such additional information as may be required by the rules and regulations of the leasing agency.

§ 6. Leasing Of Islands And Beds Navigable Rivers And Lakes.) Upon receipt by the Bank of North Dakota of an application to lease any lands which may belong to the state of North Dakota by reason of being situate up to the low water mark of any navigable river or lake of this state, there shall be published at the expense of the applicant a notice of such application to be published once a week for two successive weeks in a newspaper of general circulation in the county or counties in which said lands described in said application are located, which notice shall be substantially as follows:

“Notice is hereby given that.....of..... has applied to the Bank of North Dakota for a lease for prospecting and mining purposes and mineral deposits that may be contained in any portion of the lands in the bed of the following navigable river or lake, to-wit:..... and that on the.....day of....., A. D. 19.....at....., before the Bank of North Dakota, or its authorized agent, the opportunity will be given to any and all persons to appear and present for its consideration any reason or reasons why a lease of the afore-said lands for the aforementioned purposes should not be granted.”

The Bank of North Dakota upon receiving an application for leasing the bed of a navigable river or lake, shall send notice thereof to the state engineer of the water conservation commission who, if he thinks advisable, shall at the expense of the applicant make an investigation. If said investigation shows that the rights of interested parties may be jeopardized by the issuance of the proposed lease, the state engineer shall give notice of such applications to parties affected thereby. If objections are received, a hearing shall be held as provided

in the notice above mentioned. If at such hearing it shall appear to the agency leasing the land that the leasing of any lands up to the low water mark of any navigable river or lake will be injurious to the rights of any person or persons having the right to the use of the waters thereof for irrigation, power, or any other lawful purpose, the agency leasing the land shall deny such application.

**§ 7. Royalty Scale.)** Royalties reserved unto the state from uranium oxide shall be that provided in the following sliding scale, according to the field market price at the mine of the ore removed and sold, excluding development, hauling and initial production allowances:

5% royalty on ores assaying as to uranium oxide from .01% through .19%

7½% royalty on ores assaying as to uranium oxide from .20% through .29%

10% royalty on ores assaying as to uranium oxide from .30% through .39%

12½% royalty on ores assaying as to uranium oxide from .40% through .49%

15% royalty on ores assaying as to uranium oxide from .50% and upwards.

**§ 8. Other Royalty Provisions.)** The leasing agency may in its discretion provide for a royalty schedule affecting other leased minerals which are mined and marketed, which royalty may be in addition to the royalties provided in section 7 of this Act. The leasing agency shall provide for a reasonable royalty schedule from the production of minerals which do not contain uranium oxide or other fissionable materials in commercial quantities which royalty schedule may be upon a different basis and at a different rate than the schedule provided in section 7 of this Act. All such additional or special royalty schedules shall bear a reasonable relationship to the value of the minerals being produced.

**§ 9. Rejection Of Bids.)** Any leasing agency may, for reasonable cause, reject any and all bids or applications for bids prior to or at the time of any lease sale.

**§ 10. Rules And Regulations.)** The state and any agency leasing minerals under the provisions of this Act shall be authorized to promulgate such rules and regulations as may be necessary to carry out the provisions of this Act and to provide such terms and conditions in leases upon state minerals as may be in the best interests of the state.

Approved March 15, 1957.

## CHAPTER 247

H. B. No. 744  
(Schuler)

## LEASE OF PUBLIC LAND FOR MINERAL DEVELOPMENT

## AN ACT

To amend and reenact section 38-0919 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to the leasing of public lands for oil and gas exploration and production.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.**) That section 38-0919 of the 1953 Supplement to the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

**38-0919. Leases Void If Not Let As Provided Herein; Exceptions.)** No lease of public land for exploration or development of oil and gas production shall be valid unless advertised and let as hereinbefore provided, except:

1. Where the acreage or mineral rights owned by the state or its departments and agencies or political subdivisions is less than the minimum drilling unit under well spacing regulations, nonoperative oil and gas leases may be executed through private negotiation upon the same terms as provided in section five of this Act (38-0918), except that the state, or its departments and agencies or political subdivisions may prescribe any period or term of such lease it deems advisable, plus a reasonable bonus payment and a sum sufficient to pay all costs involved; and

2. The state or its departments and agencies or its political subdivisions shall have power to ratify all oil and gas leases executed by the purchaser of state lands under a contract for deed or other land purchase contract. In such instances, if all taxes upon the property and contract payments are current, all bonus, delayed rental or other lease payments under such leases shall be paid to the purchaser under the land purchase contract. Where such purchaser has delinquent payments upon the land purchase contract or where there are delinquent taxes upon the property, all delinquent payments and taxes shall be paid prior to the ratification of the oil and gas lease upon the premises.

3. All unexpired nonoperative oil and gas leases heretofore executed by the state, or its departments or agencies or political subdivisions are hereby ratified.

Approved March 13, 1957.